
By: **Delegates Petzold and Bozman**
Introduced and read first time: February 2, 2000
Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Graveyard Desecration - Discovered Human Remains and Disturbed Burial**
3 **Sites**

4 FOR the purpose of requiring a person who discovers human remains or a disturbed
5 burial site to report the discovery to certain persons within a certain period of
6 time; requiring certain persons who are notified of a discovery of human
7 remains or a disturbed burial site to take certain actions under certain
8 circumstances; authorizing the establishment of local burial sites advisory
9 boards; providing certain penalties for willful failure to report the discovery of
10 human remains or a disturbed burial site and to comply with certain specified
11 procedures; providing for the construction of this Act; defining certain terms;
12 and generally relating to the disposition and treatment of encountered or
13 discovered human remains or disturbed burial sites.

14 BY renumbering
15 Article 27 - Crimes and Punishments
16 Section 267
17 to be Section 266
18 Annotated Code of Maryland
19 (1996 Replacement Volume and 1999 Supplement)

20 BY adding to
21 Article 27 - Crimes and Punishments
22 Section 267 to be under the new subheading "Disposition and Treatment of
23 Discovered Human Remains and Disturbed Burial Sites"
24 Annotated Code of Maryland
25 (1996 Replacement Volume and 1999 Supplement)

26 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
27 MARYLAND, That Section(s) 267 of Article 27 - Crimes and Punishments of the
28 Annotated Code of Maryland be renumbered to be Section(s) 266.

29 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland
30 read as follows:

1 **Article 27 - Crimes and Punishments**2 **DISPOSITION AND TREATMENT OF DISCOVERED HUMAN REMAINS AND DISTURBED**
3 **BURIAL SITES**

4 267.

5 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
6 INDICATED.7 (2) (I) "ASSOCIATED FUNERARY OBJECT" MEANS AN ITEM OF HUMAN
8 MANUFACTURE OR USE THAT IS INTENTIONALLY PLACED WITH HUMAN REMAINS AT
9 THE TIME OF INTERMENT IN A BURIAL SITE OR PLACED LATER AS A PART OF A
10 DEATH RITE OR CEREMONY OF A CULTURE, RELIGION, OR GROUP.11 (II) "ASSOCIATED FUNERARY OBJECT" INCLUDES ANY
12 GRAVESTONE, MONUMENT, TOMB, OR OTHER STRUCTURE OR DECORATION IN OR
13 DIRECTLY ASSOCIATED WITH A BURIAL SITE.14 (3) (I) "BURIAL SITE" MEANS ANY NATURAL OR PREPARED PHYSICAL
15 LOCATION, WHETHER ORIGINALLY LOCATED BELOW, ON, OR ABOVE THE SURFACE
16 OF THE EARTH INTO WHICH HUMAN REMAINS OR ASSOCIATED FUNERARY OBJECTS
17 ARE DEPOSITED AS A PART OF A DEATH RITE OR CEREMONY OF ANY CULTURE,
18 RELIGION, OR GROUP.19 (II) "BURIAL SITE" INCLUDES THE HUMAN REMAINS AND
20 ASSOCIATED FUNERARY OBJECTS THAT RESULT FROM A SHIPWRECK OR OTHER
21 ACCIDENT AND ARE INTENTIONALLY LEFT TO REMAIN AT THE SITE OF THE
22 SHIPWRECK OR OTHER ACCIDENT.23 (4) "DISTURBED BURIAL SITE" INCLUDES A BURIAL SITE THAT HAS
24 BEEN:25 (I) UNINTENTIONALLY OR ACCIDENTALLY DISTURBED DURING
26 THE PROCESS OF LAND CLEARING OR DEVELOPMENT, NORMAL AGRICULTURAL
27 ACTIVITIES, OR OTHER LAWFUL EXCAVATION OF LAND, INCLUDING SPOIL
28 DREDGING IN WATERS OF THE STATE;29 (II) DISTURBED BY NATURAL CAUSES SUCH AS SHORELINE
30 EROSION, TIDAL FLOODING, EARTHQUAKE, OR ACTIONS BY ANIMALS; OR31 (III) DISTURBED WILLFULLY IN VIOLATION OF § 265 OR § 266 OF THIS
32 ARTICLE.33 (B) ANY PERSON WHO DISCOVERS IN OR ON THE GROUND OR UNDER THE
34 WATERS OF THE STATE ANY HUMAN REMAINS OR A DISTURBED BURIAL SITE SHALL:35 (1) IMMEDIATELY CEASE ANY ACTIVITY IN THE IMMEDIATE AREA OF
36 THE DISCOVERY AND CREATE A 20-FOOT BUFFER ZONE AROUND ANY DISCOVERY TO

1 PREVENT FURTHER DISTURBANCE TO THE HUMAN REMAINS OR THE BURIAL SITE;
2 AND

3 (2) SUBJECT TO SUBSECTION (C) OF THIS SECTION, NOTIFY A LAW
4 ENFORCEMENT AGENCY IN THE COUNTY WHERE THE DISCOVERY WAS MADE OF THE
5 PRESENCE AND EXACT LOCATION OF THE DISCOVERY SITE WITHIN 24 HOURS OF THE
6 TIME OF DISCOVERY.

7 (C) THE LAW ENFORCEMENT AGENCY SHALL NOTIFY THE MARYLAND
8 HISTORICAL TRUST ABOUT THE DISCOVERY OF HUMAN REMAINS IF:

9 (1) THE DISCOVERY WAS MADE DURING AN INVESTIGATION DIRECTED
10 BY A PROFESSIONAL ARCHAEOLOGIST IN ACCORDANCE WITH FEDERAL STANDARDS
11 PROVIDED IN 36 CFR PART 61, APPENDIX A; OR

12 (2) THE HUMAN REMAINS OR THE DISTURBED BURIAL SITE IS
13 DISCOVERED ON STATE-OWNED OR STATE-CONTROLLED LAND, OR UNDER THE
14 WATERS OF THE STATE.

15 (D) THE LAW ENFORCEMENT AGENCY IN THE COUNTY WHERE THE
16 DISCOVERY WAS MADE SHALL NOTIFY THE STATE'S ATTORNEY FOR THE COUNTY
17 WHERE THE HUMAN REMAINS OR THE DISTURBED BURIAL SITE IS LOCATED AND
18 THE OFFICE OF THE STATE MEDICAL EXAMINER AND OTHER AFFECTED COUNTY
19 AUTHORITIES OF THE DISCOVERY.

20 (E) THE APPROPRIATE COUNTY AUTHORITIES IN COOPERATION WITH THE
21 OFFICE OF THE STATE MEDICAL EXAMINER AND THE MARYLAND HISTORICAL TRUST
22 SHALL PROMPTLY:

23 (1) NOTIFY THE OWNER OF THE PROPERTY OR SITE WHERE THE HUMAN
24 REMAINS OR DISTURBED BURIAL SITE IS LOCATED OF THE DISCOVERY AND THE
25 APPLICABLE PROVISIONS OF THIS SECTION;

26 (2) INSPECT, OR HAVE INSPECTED BY AN AUTHORIZED AGENT, THE
27 HUMAN REMAINS OR THE DISTURBED BURIAL SITE TO DETERMINE, TO THE EXTENT
28 POSSIBLE FROM READILY AVAILABLE INFORMATION, THE AGE AND ANY OTHER
29 IDENTIFYING INFORMATION OF THE REMAINS OR BURIAL SITE;

30 (3) ASSIST IN PREVENTING OR MITIGATING ANY FURTHER DAMAGE TO
31 OR DISTURBANCE OF THE HUMAN REMAINS OR THE BURIAL SITE, INCLUDING
32 APPROPRIATION AND CARE OF THE HUMAN REMAINS UNTIL FINAL DISPOSITION IS
33 DETERMINED AS PROVIDED BY LAW;

34 (4) RECORD THE LOCATION OF THE BURIAL SITE IN THE LOCAL BURIAL
35 SITES INVENTORY, IF AVAILABLE, OR INTO WHATEVER INVENTORY OR LISTING THE
36 MARYLAND HISTORICAL TRUST DETERMINES IS APPROPRIATE; AND

37 (5) REPORT THE LOCATION OF THE BURIAL SITE TO THE LOCAL
38 SUPERVISOR OF ASSESSMENTS AS PROVIDED IN § 14-121(F) OF THE REAL PROPERTY
39 ARTICLE.

1 (F) THE PROCEDURES OUTLINED IN THIS SECTION SHALL BE COMPLETED
2 WITHIN 10 DAYS FROM THE DATE OF THE DISCOVERY.

3 (G) THE FINAL DISPOSITION AND TREATMENT OF THE DISCOVERED HUMAN
4 REMAINS OR DISTURBED BURIAL SITE SHALL BE IN ACCORDANCE WITH STATE LAW.

5 (H) A PERSON WHO WILLFULLY VIOLATES SUBSECTION (B) OF THIS SECTION
6 IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT
7 EXCEEDING \$500 OR IMPRISONMENT NOT EXCEEDING 6 MONTHS OR BOTH.

8 (I) A COUNTY OR BALTIMORE CITY MAY ESTABLISH A LOCAL BURIAL SITES
9 ADVISORY BOARD TO MAINTAIN A CURRENT INVENTORY OF BURIAL SITES WITHIN
10 THEIR JURISDICTION AND TO SERVE AS A SOURCE OF INFORMATION AND
11 ASSISTANCE REGARDING BURIAL SITES AND THE DISPOSITION OF HUMAN REMAINS
12 AND ASSOCIATED FUNERARY OBJECTS.

13 SECTION 3. AND BE IT FURTHER ENACTED, That this Act is not intended to
14 limit the authority of the legislative body of a county, including Baltimore City, or a
15 municipal corporation to provide or encourage the protection of burial sites in
16 accordance with State law.

17 SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect
18 October 1, 2000.